

Senator Stubbs being next on the roll, called up Senate bill No. 75, "An act for the protection of oysters and fish in salt and tide waters, and affixing penalties and providing for appointment of commissioners." Bill read second time, with substitute of committee, and substitute adopted.

Senator Stubbs offered the following amendment: Amend section 3, line 11, by inserting after the words "marketable size," the following:

It shall hereafter be unlawful to take or catch oysters in any of the waters of this State with or by a scoop, rake, drag or dredge, or by the use of any other instrument than the oyster tongs heretofore in general use for taking oysters.

Adopted.

Also, the following: Amend section 4, line 26, by inserting after the word "year," the following: "Or within said time to take up from their natural beds any oysters within the waters of this State for the purpose of planting or bed-ding the same." Adopted.

Also, the following: Amend section 6, line 18, by inserting after the word "August" the following: "or pos-session on board of a boat or vessel, or in an oyster shop, of a scoop, rake or other instrument forbidden by this act to be used in gathering oysters." Adopted.

Also, the following:

Section 9. The spawning season of fish and oysters being near at hand, causes an emergency which requires that this act go into im-mediate effect from and after its passage, and it is so enacted; and the approach of the close of the session and the large amount of legislative business creates an imperative public necessity which authorizes the suspension of the rule requiring bills to be read on three several days, and it is so suspended.

Adopted.

Senator Patton offered the following amendment: Add after "\$1000," "to be paid out of the county treasury of said county." Adopted, and bill ordered engrossed.

On motion of Senator Stubbs rules were suspended and bill placed on its third reading by the following vote:

YEAS—26.

Buchanan of Grimes,	Houston,	Ross,
Buchanan of Wood,	Lair,	Shannon,
Cooper,	Lane,	Stubbs,
Davenport,	Lightfoot,	Swain,
Gooch,	Martin of Navarro,	Terrell,
Harris,	Patton,	Tilson,
Henderson,	Powers,	Weatherred,
Hightower,	Rainey,	Wynne.
Homan,		

NAYS—none.

Bill read third time and passed by the following vote:

YEAS—25.

Buchanan of Grimes,	Houston,	Ross,
Buchanan of Wood,	Lair,	Shannon,
Cooper,	Lane,	Stubbs,
Davenport,	Lightfoot,	Swain,
Gooch,	Martin of Navarro,	Terrell,
Harris,	Patton,	Tilson,
Henderson,	Powers,	Weatherred,
Hightower,	Rainey,	Wynne.
Homan,		

NAYS—none.

Senator Davenport, by leave, presented a petition of citi-zens of Llano county, protesting against said county being changed from the judicial district in which it now is. Re-ferred to Committee on Judicial Districts.

Senator Lane, by leave, introduced a bill entitled "An act to enforce section 8, article 10, of the Constitution of the State of Texas." Referred to Judiciary Committee No. 1.

Senator Swain, being next on the roll, called up Senate joint resolution No. 31, proposing an amendment to article

16, section 20, of the Constitution of the State of Texas. Joint resolution read second time.

Senator Swain offered the following amendment: "The importation into and the manufacture or sale within this State of intoxicating liquors as a beverage is prohibited; *provided*, that the Legislature may exempt beer and native wines unmixed with alcoholic liquors from the provisions of this section, and the Legislature shall at the first session after the adoption of this amendment enact laws to carry out the provisions hereof."

Senator Gooch moved to amend the amendment by strik-ing out the words "as a beverage."

Senator Terrell moved a call of the Senate; call seconded.

Roll called; absent—Senators Burges, Cooper and Dun-can.

On motion of Senator Lane, the Senate adjourned until 9:30 A. M. to-morrow.

#### FORTY-THIRD DAY.

SENATE CHAMBER, }  
AUSTIN, March 2, 1881. }

Senate met pursuant to adjournment; President in the chair.

Roll called; quorum present.

Prayer by Rev. Mr. Brown, Chaplain of the House.

On motion of Senator Swain, the reading of the journal of yesterday was dispensed with, and the same adopted.

On motion of Senator Buchanan of Grimes, the Engross-ing Clerk, A. M. Belvin, was excused for the remainder of the week on account of sickness.

On motion of Senator Davenport, Senators Duncan and Gooch were excused till 3 o'clock P. M.

Senator Powers presented a petition of citizens of LaSalle county for the passage of laws authorizing sheriffs to call on Texas Volunteer Guards to aid in service of criminal process in cases of necessity. Referred to Committee on Frontier Protection.

Senator Moore presented a petition of 100 citizens of Bas-trop county, asking for a constitutional amendment pro-hibiting the importation, manufacture and sale of intoxi-cating liquors in the State of Texas. Referred to Commit-tee on Constitutional Amendments.

Senator Patton, chairman of Committee on State Affairs, submitted the following reports:

COMMITTEE ROOM,  
AUSTIN, March 1, 1881.

Hon. L. J. Storey, President of the Senate.

Your Committee on State Affairs have examined Senate bill No. 210 entitled "An act to prohibit the sale of spirituous, vinous or other intoxicating liquors within five miles of Grapeland Academy, located at the town of Grapeland, county of Houston," and they direct me to return the same to the Senate, with the recommenda-tion that it do pass.

PATTON, Chairman.

Bill read first time.

COMMITTEE ROOM,  
AUSTIN, March 1, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on State Affairs have considered Senate bill No. 223 entitled "An act to regulate the appointment and define the duties of notaries public," and they direct me to report the same back to the Senate, with the recommendation that it do pass.

PATTON, Chairman.

Bill read first time.

Senator Harris, chairman of Senate committee to act jointly with House committee in visiting and examining the Agricultural and Mechanical College and State nor-mal schools, submitted the following report:

COMMITTEE ROOM,  
AUSTIN, March 1, 1881.

To the Honorable Senate and House of Representatives:

Your joint committee, consisting of three Senators and five members of the House, appointed to visit the Agricultural and Mechanical College and the State Normal Schools, for the purpose of carefully investigating their condition, management and operations, have performed that duty and respectfully submit the following report:

The Agricultural and Mechanical College is not in as prosperous a condition as your committee hoped to find it. During the present scholastic year there have been one hundred and twenty matriculates, and now only ninety students in attendance. The report of the committee of the Sixteenth Legislature shows an attendance at that date of one hundred and sixty-seven. These figures certainly do not show the institution to be in a very prosperous condition, so far as public support is concerned. It should be remembered, however, that its retrograde tendency is due, in a great measure, to the serious misunderstanding that occurred between its managers and faculty two years ago.

The college has eleven professors employed, at a cost of \$14,280, derived from the interest on the endowment fund, or \$158.06½ per pupil (but the same professors can instruct three times this number of pupils), in addition to which we have the fees paid by each student, \$100, making, in the aggregate, \$318.06½ the cost per pupil; besides each pupil is required to furnish his own towels, pillow cases, sheets, blankets, clothes bag, comb and brush, and provide himself with a suit of uniform at a cost of \$13, so that the expense to the student himself is about \$175; but we are informed that this cost to the student can be reduced to \$125 or \$130 if the college was relieved of its indebtedness.

Comparing the expenses of this college with those of similar colleges in the United States, we find them to be \$17 less than that of Pennsylvania; \$45 less than that of Maryland; \$25 less than Alabama; \$42.50 less than Illinois; \$15 less than Louisiana; \$45 less than Missouri; \$12.50 more than Michigan; \$10 more than Tennessee. This comparison can be extended no further for want of information.

The great question to be determined, and which the Legislature and people demand, is what method can be adopted by which to diminish the expense of attending said college, and place it within the reach of those for whom it was intended, and to shape its actual instruction according to the law and design of its organization.

The board of managers until recently certainly misconstrued the objects of this institution, as no effort was made to develop the agricultural and mechanical features of the college. And even now, notwithstanding these departments have been filled up to some extent, instead of being the leading objects of the school, as required by law, your committee are of the opinion that they occupy only a subordinate position.

We suggest that the present manner of selecting and paying the Board of Directors, is cumbersome, expensive, and unsatisfactory. We recommend that five directors, three of whom shall be well versed in practical agriculture and mechanics, shall be appointed by the Governor, with the advice and consent of the Senate; that they be paid three dollars per day while attending the meeting of the Board, and five cents for each mile going and returning from the place of meeting, computing the distance by the most practicable route. These and other recommendations will be embodied in a bill and presented to the two houses under direction of your committee.

Four thousand dollars have been expended, and we believe judiciously, in fitting up the mechanical department, which is in charge of an efficient professor. The students are taught mechanical drawing, civil engineering and mechanics. In the last named course they are required to take actual shop instruction, which makes them familiar with the use of tools. This department is furnished with a twelve-horse-power engine, made to special order of the professor, and can be utilized as a stationary or locomotive engine. The students are taught how to handle this machinery while running, and, when not in active use, to separate its parts and readjust them, thus familiarizing themselves with its use and operations.

This department is also furnished with good lathes, circular saws and other necessary appliances, which are run by steam. It is too limited, however, in its provisions, to meet the demands of the college, if it should be properly conducted.

Such is also the case with the agricultural department. The first appropriation it has ever received was \$3000 set apart by the Board of Directors out of the appropriation made by the Sixteenth Legislature, a part of which has been expended, and the balance remains on hand, because under the present arrangement it cannot be utilized. The farm equipments consist in three mules, a few hogs and a very good supply of farming implements. One hundred and fifty-six acres are under fence, and about fifty in cultivation. The department is in charge of a competent professor, as we believe.

21g. 20

It is intended this season to plant thirty acres in corn, two acres in cotton, five acres in vegetables, two acres in sugar cane, ten acres in oats, ten acres in millet, and a portion of the unoccupied ground in forest tree seeds and a nursery stock of fruit trees, of which they have a large number.

Your committee would recommend an appropriation for these special departments in order that they may be enlarged and the college placed upon a proper basis; this appropriation to be made out of the interest on the university fund, as this college is a branch of the State University.

We believe if the departments of agriculture and mechanics were enlarged and perfected, so that our young men who desire to follow these industrial pursuits could perform some of the duties of the farm and shop in part payment of board and other expenses, and the students be compelled, one-half to pursue the mechanical course, and one-half the agricultural course, a great good will have been accomplished, and the benefits of this college will be eagerly sought by those who cannot now "attain unto it."

This idea is strengthened by the fact that the president stated to your committee, that not less than thirty young men have applied for admission on the terms above mentioned, during the present scholastic year. We suggest, that if three students from each senatorial district should be admitted free of charge, it would enable the influence of the college to permeate the whole State, and establish the school upon an enduring basis. We recommend that \$8000 be appropriated from whatever fund may be thought proper and just in order to carry out this idea.

The present programme must be changed, in our opinion, in order to successfully accomplish the objects of the institution—by placing it in the reach of those who are unable to attend expensive high schools, so that the sons of farmers can attend it for the purpose of acquiring an education in the industrial pursuits. As at present, the sons of the wealthy go to this school to obtain a literary education and take a nominal course in agriculture or mechanics, in order to gain admission and the benefits of public aid.

Out of ninety students in the college only four are classed in the agricultural department, and as each is required to enter one of these departments, the remainder of the ninety are nominally classed in the mechanical course.

It has been charged that this school is a military institute, and some of your committee visited the college under the belief that too much prominence was given to that feature. The law of Congress under which the endowment fund was donated does not allow military tactics to be entirely excluded, and your committee believe under the present administration the military feature is of no disadvantage, as only sufficient attention is given to it to conduce to a thorough and efficient discipline.

It has also been charged that the Board of Directors have received pay for their services, contrary to law, out of the interest on the endowment fund, and that said board drew more pay as mileage and per diem than they were allowed by law. Your committee have carefully examined the law, together with the vouchers now on file in the Comptroller's office and find, that while there may be a question as to whether any part of the endowment fund can be legally used to defray the expenses of the board, by reference to pages 72 and 73 of the general laws of 1875, it will be seen that the Legislature appropriated it for that purpose.

Upon the subject of mileage, the act of 1876, page 93 (see Revised Statutes, article 3689), says: "They (the directors) shall be allowed five dollars for each and every twenty-five miles traveled from their place of residence to the place of meeting."

The vouchers and entries in the Comptroller's office show that the directors of said board have drawn mileage for the distance traveled both ways, and have drawn pay for greater mileage than the most practicable route, in several instances.

The law allowed them five dollars per day, which was drawn.

We respectfully refer to the certified statement of the Comptroller, which accompanies this report.

We desire to say that we believe President James is fully in accord with our views, and is devoting his time and talent to develop this institution into a truly agricultural and mechanical college, with the limited means at his command; and so far as we could judge, the entire faculty is competent and energetic.

The president and faculty can only carry out the provisions made by the Board of Directors and are not responsible for any defect supposed or real in the present character and condition of the school.

In conclusion, your committee would state that patronage is what this college especially needs, and that can be secured by the development of the agricultural and mechanical features as herein before recommended.

HEMPSTEAD NORMAL SCHOOL.

We next visited this school, which, upon careful inquiry and examination, we found to be in a highly prosperous condition. The

faculty, students and employees consist of colored people exclusively. There are now in attendance forty-six students, selected under the law from the several senatorial districts of the State. These students are taught and boarded at the expense of the State. There are also a few other students in attendance who receive tuition free but pay their board. Professor E. C. Aderson, (?) the principal of this school, appears to be zealous in the discharge of his duties, and the industry displayed by the students, and evidences of their proficiency in the several branches therein taught, warrant the belief that much good is already being accomplished by this institution, and that the most sanguine expectation of its founders will be realized.

The appropriation heretofore made for this college appears to have been carefully and judiciously expended. The tract of land belonging to the State, upon which the school is situated, we believe consists of something over 2000 acres, and we recommend that a portion of it, say 1200 or 1500 acres, be leased to tenants for a term of years. By this means we believe that the lands may be improved and their value enhanced to such an extent as to enable the State to support this school at less direct expense. The new building, now occupied as the school room proper, and which has been erected since the purchase of this property by the State, should be painted; a building occupied by the male students needs a new roof; the kitchen needs another stove, and it is important that the farm be supplied with a pair of good mules and a sufficient number of agricultural implements for the cultivation of the small farm now enclosed.

The principal informed the committee that the male students would willingly cultivate the farm if provided with the means of doing so. The school has no library. In our opinion, a small library and some periodicals should be furnished. For the purpose of supplying these wants, we recommend an appropriation of \$2000 in addition to the annual appropriation heretofore made.

#### THE HUNTSVILLE NORMAL SCHOOL.

Our visit to this school, and a careful observance of its operation, enable us to report it to be in first rate condition. The munificence of the State has secured for it the full extent of patronage which the appropriation for its support permits it to receive. In its present success, and the large benefits flowing from it to the State, we regard it as an invaluable adjunct to the public school system. No part of the support heretofore afforded to this school ought to be withdrawn. There are now in attendance 96 State students, who receive tuition and board at the expense of the State, besides about — who pay their board and tuition, raising the total number about 140. The State pays \$14 per month for the State students. That the usefulness of the school may be extended, we recommend that the number of State students now there be increased by adding one more from each Senatorial District. For repairs of building and fences, we recommend an appropriation of \$2000, and the further sum of \$18,060 to pay professors and the board of students.

A. J. HARRIS, Chairman,  
W. R. SHANNON,  
JNO. C. BUCHANAN,  
Senate Committee.  
J. E. GRAY, Chairman,  
T. F. NASH,  
J. P. AYRES,  
B. F. FRYMIER,  
House Committee.

#### STATEMENT OF AMOUNTS PAID DIRECTORS OF AGRICULTURAL AND MECHANICAL COLLEGE.

1876.		
July	24—B. H. Davis, per diem.....	\$75 00
	26—C. S. West, per diem.....	75 00
Aug.	9—R. B. Hubbard, per diem, \$25; 400 miles, \$80.....	105 00
Oct.	9—Chas. DeMorse, per diem, \$45; 604 miles, \$83.....	128 00
Oct.	9—R. B. Hubbard, per diem, \$30; 400 miles, \$80.....	110 00
Oct.	13—B. H. Davis, per diem.....	15 00
Oct.	20—Wm. Falconer, salary sec'y year ending Oct. 14....	125 00
1877.		
Jan.	10—B. H. Davis (meeting at Austin), per diem, \$25; 250 miles, \$50.....	75 00
Jan.	10—Wells Thompson, per diem, \$15; 200 miles, \$40.....	50 00
Jan.	10—A. J. Peeler, per diem, \$15.....	15 00
Jan.	10—Chas. DeMorse, per diem, \$45; 792 miles, \$158.40.....	203 40
Jan.	11—Wm. Falconer, salary sec'y year ending Jan. 11....	125 00
June	29—Wells Thompson (meeting at Bryan), per diem, \$25; 235 miles, \$45.....	70 00
June	29—J. M. Scott, per diem, \$30; 426 miles, \$85.20.....	115 20
June	29—Chas. DeMorse, per diem, \$40; 708 miles, \$141.60.....	181 60
June	29—A. J. Peeler, per diem, \$25; 200 miles, \$40.....	65 00
June	29—B. H. Davis, per diem.....	15 00
Nov.	20—Chas. DeMorse (meeting at Austin), per diem, \$50; 798 miles, \$159.60.....	209 60

1878.		
Nov.	20—B. H. Davis, per diem, \$35; 250 miles, \$50.....	85 00
Nov.	20—Wells Thompson, per diem, \$35; 200 miles, \$40.....	75 00
Nov.	20—J. M. Scott, per diem, \$35; 240 miles, \$86.....	131 00
Nov.	20—E. B. Pickett, per diem, \$30; 458 miles, \$87.60.....	117 60
Nov.	20—A. J. Peeler, per diem, \$25.....	25 00
July	5—E. B. Pickett (meeting at Bryan), per diem, \$20; 272 miles, \$54.40.....	74 40
July	5—A. J. Peeler, per diem, \$20; 214 miles, \$42.80.....	62 80
July	5—B. H. Davis, per diem.....	20 00
July	5—J. M. Scott, per diem, \$20; 416 miles, \$83.20.....	103 20
July	5—J. R. Bonner, per diem, \$20; 350 miles, \$70.....	90 00
July	20—Chas. DeMorse, per diem, \$20; 672 miles, \$134.40.....	154 40
1879.		
Jan.	25—A. J. Peeler (meeting at Austin), per diem.....	80 00
Jan.	25—B. H. Davis, per diem, \$10; 320 miles, \$44.40.....	54 40
Jan.	25—E. B. Pickett, per diem, \$30; 400 miles, \$80.....	110 00
Jan.	25—J. M. Scott, per diem, \$30; 544 miles, \$108.80.....	138 80
Jan.	25—Chas. DeMorse, per diem, \$30; 828 miles, \$165.60.....	195 60
June	28—A. J. Peeler (meeting at Bryan and Austin), per diem, \$30; 218 miles, \$43.60.....	73 60
June	28—E. B. Pickett, per diem, \$30; 400 miles, \$80.....	110 00
June	28—Geo. Pfeuffer, per diem, \$30; 38 miles, \$63.60.....	93 60
June	28—J. K. Dickson, per diem, \$30; 330 miles, \$66.60.....	96 60
June	28—J. W. Durant, per diem, \$30; 328 miles, \$65.60.....	95 60
June	28—H. W. Lyday, per diem, \$30; 612 miles, \$122.40.....	152 40
Aug.	30—A. J. Peeler, (meeting at Bryan and Prairie View) per diem, \$20; 276 miles, \$55.....	75 00
Aug.	30—Geo. Pfeuffer, per diem, \$20; 560 miles, \$112.....	132 00
Aug.	30—H. W. Lyday, per diem, \$20; 620 miles, \$124.....	144 00
Aug.	30—J. K. Dickson, per diem, \$20; 235 miles, \$70.40.....	90 40
Aug.	30—J. W. Durant, per diem, \$20; 220 miles, \$44.....	64 00
Aug.	30—E. B. Pickett, per diem, \$15; 280 miles, \$56.....	71 00
Sept.	24—Jno. H. Cochran, 430 miles.....	86 00
Nov.	28—Geo. Pfeuffer, (Bryan and Prairie View) per diem \$40; 702 miles, \$140.40.....	180 40
Nov.	28—A. J. Peeler, per diem, \$40; 344 miles, \$68.80.....	108 80
Nov.	28—Jno. H. Cochran, 412 miles.....	82 40
Nov.	28—J. D. Sayers, 150 miles.....	30 00
Nov.	28—E. B. Pickett, per diem, \$25; 280 miles, \$56.....	81 00
Nov.	28—H. W. Lyday, per diem, \$40; 640 miles, \$128.....	168 00
Nov.	28—J. K. Dickson, per diem, \$15; 390 miles, \$78.....	118 00
Nov.	27—J. W. Durant, per diem, \$40; 214 miles, \$42.40.....	82 40
1880.		
June	25—J. H. Cochran, (Bryan and Prairie View) 442 miles.....	88 40
June	25—J. W. Durant, per diem, \$30; 300 miles, \$60.....	90 00
June	25—H. W. Lyday, per diem, \$30; 632 miles, \$126.40.....	156 40
June	25—Geo. Pfeuffer, per diem, \$15; 604 miles, \$120.80.....	135 80
June	25—J. K. Dickson, per diem, \$30; 396 miles, \$79.20.....	109 20
June	26—E. B. Pickett, per diem, \$15; 268 miles, \$56.....	71 00
July	7—J. D. Sayers, 205 miles.....	40 00
July	7—J. D. Sayers, 150 miles.....	30 00
July	14—A. J. Peeler, per diem, \$15; 206 miles, \$41.20.....	56 20
July	25—H. C. Edrington, fiscal agent, one year.....	200 00
Aug.	2—A. J. Peeler (meeting at Austin), per diem.....	30 00
July	30—John H. Cochran, 460 miles.....	92 00
July	31—E. B. Pickett, per diem, \$20; 400 miles, \$80.....	100 00
Aug.	2—J. W. Durant, per diem, \$30; 350 miles, \$70.....	100 00
Aug.	2—J. K. Dickson, per diem, \$30; 390 miles, \$78.....	108 00
Aug.	2—George Pfeuffer, per diem, \$30; 100 miles, \$20.....	50 00
Aug.	2—H. W. Lyday, per diem, \$25; 618 miles, \$129.60.....	154 60
Aug.	2—W. Spencer, sec'y, transcribing minutes of board at Bryan, November, 1879.....	32 00

I hereby certify that the foregoing statement is correct.

W. M. BROWN, Comptroller.

#### TABLE OF DISTANCES ONE WAY.

From Brazos county to Austin.....	100 miles
From Red River county to Austin.....	340 miles
From Colorado county to Austin.....	100 miles
From Collin county to Austin.....	231 miles
From Liberty county to Austin.....	220 miles
From Comal county to Austin.....	50 miles
From Leon county to Austin.....	150 miles
From Fannin county to Austin.....	250 miles
From Dallas county to Austin.....	200 miles
From Hill county to Austin.....	140 miles
From Bastrop county to Austin.....	35 miles

Senator Homan moved that the reading of the report be dispensed with, and that 500 extra copies of the daily journal containing the same be printed for the use of the Senate. Adopted.

Senator Weathered by request introduced a bill entitled "An act to prohibit the sale of spirituous, vinous, or other



intoxicating liquors within four miles of Porter's Springs, Houston county." Referred to Committee on State Affairs.

Senator Wynne introduced a bill entitled "An act to amend article 1000, section 2 of an act entitled 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,' passed February 21, 1879." Referred to Judiciary Committee No. 2.

Senator Henderson called up his motion to reconsider substitute Senate bill No. 222, "An act to establish the Thirty-sixth Judicial District and to provide for the appointment of a district judge and district attorney therein, and to conform the Twenty-second and Twenty-fourth Judicial District thereto," and by unanimous consent withdrew said reasons, and asked that the following reasons thereof be spread upon the journals.

Motion to reconsider Senate substitute bill No. 222 withdrawn.

In withdrawing my motion to reconsider substitute Senate bill No. 222, I will state my reasons for entering said motion, and also for now withdrawing same.

After said bill had passed I examined the location of the counties and population thereof, composing the three districts, to-wit: The Twenty-second and Twenty-fourth, which are reformed by the bill, and the Thirty-sixth, which is the new district created. On investigation I ascertained the population of the Twenty-second District to be 30,480; of the Twenty-fourth 27,119, and of the Thirty-sixth (the new district) 11,500; and the total population of the three districts together aggregating 69,099—not as many altogether as the population of several judicial districts in this State, in which, from my own knowledge, the district judges are enabled to discharge the duties thereof. It certainly appeared to me that the new district, with a population of only 11,500, was entirely too small. Since entering said motion I have conferred with the Senators in whose districts the judicial districts affected are situated, and am informed by them that the new district, taken from the other two, is necessary, particularly on account of the large territory embraced in the districts. In deference to their views I have been constrained to withdraw my opposition, notwithstanding the smallness of the population of the new district created.

J. N. HENDERSON.

The Senate went into executive session.

#### IN SENATE.

Senator Houston moved that the result of the executive session be spread upon the journal, and that the Governor be advised thereof, as follows: That the Senate had advised and consented to the appointment of B. F. Williams of Young county, to be district judge of the Thirty-fourth Judicial District, and John T. Brim of Young county, to be district attorney of said Thirty-fourth Judicial District. Adopted.

Senator Martin of Navarro, moved to call up his motion to reconsider the passage of House bill No. 385, "An act to repeal 'an act to diminish the civil jurisdiction of the county court of Navarro county, and to conform the jurisdiction of the district court of said county to such change,' approved July 2, 1879." Adopted, and passage of bill reconsidered.

Senator Martin of Navarro, offered the following amendment: Amend by inserting the following after section 1:

Section 2. That said county court be and the same is hereby re-invested with the jurisdiction, criminal and civil, which it had exercised prior to the passage of said act diminishing the jurisdiction of said court.

Adopted by the following vote:

YEAS—24.		
Burgos,	Lane,	Ross,
Cooper,	Lightfoot,	Shannon,
Harris,	Martin of Cooke,	Stubbs,
Henderson,	Martin of Navarro,	Swain,
Hightower,	Moore,	Terrell,
Homan,	Patton,	Tilson,
Houston,	Powers,	Weatherred,
Lair,	Rainey,	Wynne.

NAYS—none.

NOT VOTING—3.

Buchanan of Grimes Buchanan of Wood, Davenport.  
Also, the following: Amend so as to make sections 2, 3 and 4 respectively, 3, 4, 5. Adopted by the following vote:

YEAS—23.

Burges,	Lair,	Rainey,
Cooper,	Lane,	Ross,
Davenport,	Lightfoot,	Stubbs,
Harris,	Martin of Cooke,	Swain,
Henderson,	Martin of Navarro,	Tilson,
Hightower,	Moore,	Weatherred,
Homan,	Patton,	Wynne.
Houston,	Powers,	

NAYS—none.

NOT VOTING—4

Buchanan of Grimes	Shannon,	Terrell.
Buchanan of Wood,		

Also, the following: Amend the caption of the bill by adding after the figures 1879 the following: "and to prescribe the jurisdiction of said county court." Adopted by the following vote:

YEAS—25.

Burges,	Lane,	Ross,
Cooper,	Lightfoot,	Shannon,
Davenport,	Martin of Cooke,	Stubbs,
Harris,	Martin of Navarro,	Swain,
Henderson,	Moore,	Terrell,
Hightower,	Patton,	Tilson,
Homan,	Powers,	Weatherred,
Houston,	Rainey,	Wynne.
Lair,		

NAYS—none.

NOT VOTING—2

Buchanan of Grimes	Buchanan of Wood.
--------------------	-------------------

The bill was then passed by the following vote:

YEAS—24.

Cooper,	Lane,	Ross,
Davenport,	Lightfoot,	Shannon,
Harris,	Martin of Cooke,	Stubbs,
Henderson,	Martin of Navarro,	Swain,
Hightower,	Moore,	Terrell,
Homan,	Patton,	Tilson,
Houston,	Powers,	Weatherred,
Lair,	Rainey,	Wynne.

NAYS—none.

NOT VOTING—3.

Buchanan of Grimes	Buchanan of Wood,	Burges.
--------------------	-------------------	---------

Senator Terrell, by request, presented a petition signed by ladies of Williamson county, asking a constitutional amendment prohibiting the importation or manufacture of intoxicating liquors in Texas. Referred to Committee on Constitutional Amendments.

Senator Tilson moved to call up his motion to reconsider the passage of Senate bill No. 117, "An act to amend article 245, chapter 2, of the Revised Civil Statutes, and to repeal article 247, chapter 2, of the Revised Civil Statutes." Adopted and bill reconsidered.

Senator Tilson offered the following amendment: Amend last section: After the word "necessity," in section 3, insert "and emergency;" and after the word "and," in the last line, insert the "words "that it may go into immediate effect." Adopted by the following vote:

YEAS—25.

Buchanan of Grimes,	Lane,	Ross,
Cooper,	Lightfoot,	Shannon,
Davenport,	Martin of Cooke,	Stubbs,
Harris,	Martin of Navarro,	Swain,
Henderson,	Moore,	Terrell,
Hightower,	Patton,	Tilson,
Homan,	Powers,	Weatherred,
Houston,	Rainey,	Wynne.
Lair,		

NAYS—none.

NOT VOTING—2.

Buchanan of Wood, Burges.

The bill then passed by the following vote:

YEAS—25.

Buchanan of Grimes,	Lair,	Rainey,
Burges,	Lane,	Shannon,
Cooper,	Lightfoot,	Stubbs,
Davenport,	Martin of Cook,	Swain,
Harris,	Martin of Navarro,	Terrell,
Henderson,	Moore,	Tilson,
Hightower,	Patton,	Weatherred,
Homan,	Powers,	Wynne.
Houston,		

NAYS—none.

NOT VOTING—2.

Buchanan of Wood, Ross.

First special order after executive session being Senate bill No. 1, "An act to amend article 3704, Revised Civil Statutes of Texas," was taken up.

Senator Terrell moved to postpone temporarily, subject to call. Adopted.

A message was received from the House announcing that that body refuses to concur in Senate amendments to House bill No. 4, "An act to amend articles 364 and 365 of an act entitled 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,' presented to the Governor for his approval on February 27, 1879;" also, that the House concurs in the Senate's amendment to House concurrent resolution, relative to the Jews.

Senate bill No. 27, "An act concerning factors and commission merchants," being next special order, was taken up and read second time, with majority and minority reports.

Senator Hightower moved the adoption of the minority report.

Senator Stubbs moved the adoption of the majority report.

(Senator Burges in the chair.)

(The President in the chair.)

The question being on the motion of Senator Hightower to adopt the minority report, Senator Stubbs moved a call of the Senate. Call sustained.

Roll called; absent—Senators Lane and Martin of Cooke.

Absent Senators appearing, Senate was announced full.

Minority report lost, and majority report adopted by the following vote:

YEAS—11.

Buchanan of Grimes	Martin of Cooke,	Swain,
Burges,	Moore,	Weatherred
Harris,	Rainey,	Wynne.
Hightower,	Ross,	

NAYS—16.

Buchanan of Wood,	Lair,	Powers,
Cooper,	Lane,	Shannon,
Davenport,	Lightfoot,	Stubbs,
Henderson,	Martin of Navarro,	Terrell,
Homan,	Patton,	Tilson.
Houston,		

Senator Lightfoot offered the following amendment: Amend by striking out the words "mode or obtained thereon," in section 3, line 18, page 1, and insert in lieu thereof the words, "obtained thereon, and shall have an instrument in writing from the owner of such merchandise showing that the same was so consigned." Adopted.

Senator Stubbs offered the following substitute for section 7:

Every factor or agent who shall deposit any merchandise entrusted or consigned to him, or any document so possessed or entrusted as aforesaid, as a security for any money borrowed or negotiable instrument received by such factor or agent, and shall apply or dispose of the same to his own use contrary to good faith and with intent to defraud to the true owner, and every factor or agent who shall sell

any merchandise entrusted or consigned to him in the like manner and with the like fraudulent intent, and every person who shall knowingly connive with, or aid or assist any such factor or agent in such fraudulent deposit or sale, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by confinement in the penitentiary for not less nor more than five years.

Senator Patton offered the following substitute for the substitute: In line 30, page 2, for "misdemeanor," substitute "felony," and after "by," in line 31, strike out the remainder of the sentence and insert "confinement in the penitentiary for a term of not less than two nor more than ten years." Adopted by the following vote:

YEAS—18.

Buchanan of Grimes,	Lightfoot,	Ross,
Buchanan of Wood,	Martin of Cooke,	Swain,
Henderson,	Martin of Navarro,	Terrell,
Hightower,	Moore,	Tilson,
Houston,	Patton,	Weatherred,
Lane,	Rainey,	Wynne.

NAYS—6.

Cooper,	Homan,	Powers,
Davenport,	Lair,	Stubbs.

NOT VOTING—3.

Burges,	Harris,	Shannon.
---------	---------	----------

Substitute was then adopted as part of the bill by the following vote:

YEAS—21.

Buchanan of Grimes,	Lane,	Ross,
Buchanan of Wood,	Lightfoot,	Shannon,
Cooper,	Martin of Cooke,	Swain,
Davenport,	Martin of Navarro,	Terrell,
Henderson,	Moore,	Tilson,
Hightower,	Patton,	Weatherred,
Houston,	Rainey,	Wynne.

NAYS—4.

Homan,	Powers,	Stubbs.
Lair,		

NOT VOTING—2.

Burges,	Harris.
---------	---------

Senator Houston offered the following amendment: Strike out "contrary" in line 25, page 2, and insert "with-out." Adopted.

The Senate refused to engross the bill by the following vote:

YEAS—11.

Davenport,	Lair,	Stubbs,
Henderson,	Lightfoot,	Swain,
Homan,	Powers,	Terrell.
Houston,	Shannon,	

NAYS—12.

Buchanan of Grimes	Hightower,	Rainey,
Buchanan of Wood,	Martin of Cooke,	Ross,
Burges,	Martin of Navarro,	Weatherred,
Cooper,	Moore,	Wynne.

NOT VOTING—2.

Patton,	Tilson.
---------	---------

Senator Lane was paired with Senator Harris. The latter, if present, would vote "no;" Senator Harris would vote "aye."

The following communication was read:

SCHOOL FOR THE BLIND, )  
AUSTIN, TEXAS, March 2, 1881. }

Hon. L. L. Storey, President of the Senate:

Sir—Please do me the favor to invite the honorable Senators to hall of the House to night at 8 o'clock, at which time I shall demonstrate how the blind are taught, and some of the pupils will give some music, recitations, etc.

Respectfully,

FRANK RAINEY, Supt. Inst.

The following concurrent House resolution was taken up:

Resolved by the House of Representatives, the Senate concurring, That 11 o'clock A. M., on Monday, the seventh of March proximo, be fixed as the time for the present Legislature to elect, as required by law, six directors of the Agricultural and Mechanical College of Texas, to serve the ensuing two years, and that the Senate be respectfully in-

vited to meet this House in joint session at said time to elect such directors.

On motion of Senator Houston, the resolution was postponed till the fifth of March.

Senator Rainey, by request, introduced a bill entitled "An act to amend article 816, of section 2, of an act entitled 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,' passed February 21, 1879." Referred to Judiciary Committee No. 1.

Senator Rainey also entered a motion to reconsider the vote by which the Senate refused to engross Senate bill No. 27, "An act concerning factors and commission merchants."

Senator Buchanan of Grimes, chairman of Committee on Engrossed Bills, submitted the following reports:

COMMITTEE ROOM,  
AUSTIN, March 2, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 208, "An act to diminish the civil and criminal jurisdiction of the County Courts of Grimes, Montgomery and Karnes counties, and to conform the jurisdiction of the district courts of said counties to such change," and substitute for Senate bill No. 194, "An act to provide for the issuance of manuscript bonds of the State for the funds derived from the sale of lands set apart to the several counties for school purposes, etc., etc.," and find the same correctly engrossed.

BUCHANAN of Grimes, Chairman.

COMMITTEE ROOM,  
AUSTIN, March 2, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 211, "An act to authorize railroad companies incorporated by or under the laws of this State, to exercise rights, franchises and privileges in other States," Senate bill No. 197, "An act to amend article 858, of chapter 3, of the Penal Code of the State of Texas," and find the same correctly engrossed.

BUCHANAN of Grimes, Chairman.

On motion of Senator Buchanan of Grimes, the Senate adjourned till 3 P. M.

#### AFTERNOON SESSION.

Senate met pursuant to adjournment; the President in the chair.

Roll called; quorum present.

The pending business being the consideration of Senate joint resolution No. 31, proposing an amendment to article 16, section 20, of the Constitution of the State of Texas, the amendment of Senator Gooch pending.

Senator Homan moved a call of the Senate. Call sustained.

Roll called; absent: Senators Buchanan of Grimes, Burges, Gooch, Lane and Martin of Cooke.

The Sergeant-at-Arms was dispatched for the absent Senators.

Pending business went to the table.

Senator Terrell, being next on the roll, called up Senate bill No. 204, "An act to amend articles 1190 and 1191 of the Revised Civil Statutes of the State of Texas, relating to proceedings in suits in which corporations, public and private, are involved." Bill read second time and ordered engrossed.

Senator Moore being absent by leave when his name was called, asked that he be permitted to claim his privilege. Granted by unanimous consent.

Senator Moore then called up Senate bill No. 207, "An act to create the counties of Lester, Thomas and Sutton out of territory embraced in the unorganized county of Crockett." Bill read second time.

Senator Moore offered the following amendment:

The near approach of the end of the session, and the importance to the convenience of the people affected by the provisions of this act, that it should become a law before the next session of the Legislature, creates an imperative public necessity and emergency that the constitutional rule requiring bills to be read on three several days, should be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Adopted, and bill ordered engrossed.

On motion of Senator Moore, rules were suspended and bill placed on its third reading by the following vote:

YEAS—25.		
Buchanan of Grimes	Lair,	Ross,
Buchanan of Wood,	Lane,	Shannon,
Cooper,	Lightfoot,	Stubbs,
Davenport,	Martin of Navarro,	Swain,
Harris,	Moore,	Terrell,
Henderson,	Patton,	Tilson,
Hightower,	Powers,	Weatherred,
Homan,	Rainey,	Wynne.
Houston,		

NAYS—none.		
NOT VOTING—3.		
Burges,	Duncan,	Gooch.

Bill read third time and passed by the following vote:

YEAS—26.		
Buchanan of Grimes,	Homan,	Rainey,
Buchanan of Wood,	Houston,	Ross,
Cooper,	Lair,	Stubbs,
Davenport,	Lane,	Swain,
Duncan,	Lightfoot,	Terrell,
Gooch,	Martin of Navarro,	Tilson,
Harris,	Moore,	Weatherred,
Henderson,	Patton,	Wynne.
Hightower,	Powers,	

NAYS—none.		
NOT VOTING—2.		
Burges,	Shannon,	

A message was received from the House announcing the adoption by that body of the following concurrent resolution:

*Resolved by the House of Representatives, the Senate concurring, That both houses of the Seventeenth Legislature stand adjourned sine die on Tuesday, at 12 o'clock, the fifteenth of March, A. D. 1881.*

On motion of Senator Patton, Senator Martin of Cooke was excused on account of sickness by the following vote:

YEAS—25.		
Buchanan of Grimes,	Homan,	Rainey,
Buchanan of Wood,	Lair,	Ross,
Cooper,	Lane,	Shannon,
Davenport,	Lightfoot,	Stubbs,
Duncan,	Martin of Navarro,	Terrell,
Gooch,	Moore,	Tilson,
Harris,	Patton,	Weatherred,
Henderson,	Powers,	Wynne.
Hightower,		

NAYS—none.		
NOT VOTING—2.		
Burges,	Houston,	Swain.

Senator Lair moved to suspend the rules and take up House concurrent resolution with reference to adjournment. Ruled out of order.

On motion of Senator Powers, Ernest Hilmyer was excused on account of sickness.

Senate was announced full.

Pending business, being the consideration of Senate joint resolution No. 31, proposing amendment to article 16, section 20, of the Constitution of the State of Texas, was resumed.

Senator Gooch withdrew his amendment that was pending on adjournment yesterday.

Senator Powers offered the following amendment:

Add after first section the following:

Sec. — Members of the Legislature, and all civil officers, before they enter upon the duties of their offices, shall take the



following oath or affirmation, in lieu of the oath now prescribed in article 16 of the Constitution: "I do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent upon me as \_\_\_\_\_, according to the best of my skill and ability, agreeably to the Constitution and laws of this State and of the United States; and I do further solemnly swear (or affirm) that since the adoption of this constitutional amendment to the Constitution of this State, I, being a citizen of this State, have not fought a duel with deadly weapons within this State, nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending; and I furthermore solemnly swear (or affirm) that I have not, directly nor indirectly, paid, offered, or promised to pay, contributed nor promised to contribute, any money or valuable thing, or promised any public office or employment as a reward for the giving or withholding a vote at the election at which I was elected (or if the office is one of appointment, to the securing my appointment); and I further swear (or affirm) that I will henceforth abstain from the use of all intoxicating beverages which are prohibited by the Constitution of this State from being imported, manufactured, sold or given away therein, except for sacramental purposes, or as prescribed in good faith for medical purposes."

Sec. —. That the Legislature shall provide by law for the due observance of this provision, and prescribe penalties for a violation of the same; *provided*, that the Legislature may also provide that all persons pursuing any vocation which, by law, requires a license to pursue, shall take the oath herein prescribed in such modified form as the nature of the case may seem to require.

Senator Swain made the point of order that the amendment is not germane to the subject, the bill proposing to amend one article of the Constitution, and the amendment the other. Point of order overruled, and amendment lost.

Senator Swain offered the following amendment:

Sec. 2. *Be it further resolved*, That the Governor be and he is hereby required to issue his proclamation directing an election to be held throughout the State, at the next general election, for the purpose of submitting the foregoing amendment to the qualified voters of the State, and to cause to be published once a week for four weeks, at least three months prior to said election, the above proposed amendment in one weekly newspaper of each county in the State in which a newspaper may be published, and shall direct said election to be held in accordance with the law regulating general elections.

Upon the receipt of the proclamation of the Governor, the county judge shall proceed to issue his writs of election appointing judges of elections, in accordance with the election law.

Those desiring to vote for the amendment shall have written or printed upon their tickets, "for prohibition." Those desiring to vote against the amendment shall have written or printed upon their tickets, "against prohibition."

Immediately after the election the officers of each precinct shall forward to the county judge of their county a duplicate return, showing the number of votes cast for and against the amendment, and on the tenth day thereafter the county judge shall open and count said returns and forthwith forward to the Secretary of State, in a sealed package, a tabulated statement thereof, showing the total number of votes cast in the county for and against the amendment, and on the fortieth day after said election, the Secretary of State shall, in the presence of the Governor and Attorney-General, open and count said returns, and if it shall appear from the returns that a majority of the votes were cast for said amendment, it shall be the duty of the Governor on the following day to issue his proclamation setting forth the fact that said amendment has received a majority of the votes cast at said election, and shall proclaim that said amendment has become a part of the State Constitution; and this amendment shall take effect from and after said proclamation.

Senator Cooper offered the following amendment to the amendment of Senator Swain: "This proposed amendment shall be voted on by the qualified electors for members of the Legislature on the first Tuesday in September, A. D. 1881." Accepted.

Senator Lightfoot offered the following amendment: Amend section 2 by striking out the words "first Tuesday in September, 1881," and inserting in lieu thereof the following: "First Tuesday in August, 1882." Withdrawn.

Senator Swain's amendment was adopted by the following vote:

YEAS—24.		
Buchanan of Grimes,	Hightower,	Rainey,
Burges,	Homan,	Ross,
Cooper,	Houston,	Shannon,
Davenport,	Lair,	Stubbs,
Duncan,	Lane,	Swain,
Gooch,	Lightfoot,	Tilson,
Harris,	Moore,	Weatherred,
Henderson,	Powers,	Wynne.
NAYS—4.		
Buchanan of Wood,	Patton,	Terrell.
Martin of Navarro,		

Senator Gooch offered the following amendment: Amend section 1 by striking out all after the words "as a beverage," and insert "except wine and beer is prohibited, and the Legislature shall enact laws to carry out the provisions hereof."

Senator Terrell offered to amend the amendment as follows:

*Provided*, The Legislature shall have power to permit counties, precincts, cities or towns to exempt themselves by a majority vote from the prohibition imposed by this amendment, under such rules as may be prescribed by statute.

Lost.

Senator Gooch's amendment lost by the following vote:

YEAS—9.		
Burges,	Henderson,	Moore.
Cooper,	Houston,	Powers,
Gooch,	Lane,	Weatherred.
NAYS—18.		
Buchanan of Grimes,	Homan,	Shannon,
Buchanan of Wood,	Lair,	Stubbs,
Davenport,	Lightfoot,	Swain,
Duncan,	Martin of Navarro,	Terrell,
Harris,	Rainey,	Tilson,
Hightower,	Ross,	Wynne.

NOT VOTING.

Patton.

Senator Lightfoot offered the following amendment: Amend the substitute by striking out all that portion which allows the Legislature to except wine and beer from the operation of the amendment. Withdrawn.

Senator Homan moved to reconsider the vote by which Senator Gooch's amendment was lost. Withdrawn.

On motion of Senator Houston, Senate adjourned until 9:30 A. M. to-morrow.

#### FORTY-FOURTH DAY.

SENATE CHAMBER, }  
AUSTIN, March 3, 1881. }

Senate met pursuant to adjournment; President in the chair.

Roll called; quorum present.

Prayer by the Rev. Dr. Wilkes, chaplain.

On motion of Senator Patton, the reading of the journal of yesterday was dispensed with, and the same adopted.

Senator Buchanan of Grimes presented a memorial of Pomona Grange of Grimes county, asking the Legislature to make certain changes in the free school law. Referred to Committee on Education.

Also, a petition of citizens of Walker county, asking for a prohibitory liquor law. Referred to Committee on Constitutional Amendments.

Senator Stubbs, for Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,  
AUSTIN, March 2, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 75, "An act for the protection of fish and